



LABORATORY CERTIFICATION

Request for Rulemaking

May 10, 2006

Introduction

The mission of the Department of Health (DOH), Office of Drinking Water is to protect the health of the people of Washington State by assuring safe and reliable drinking water. Washington regulates public water systems under both state regulations, and a formal agreement with the Environmental Protection Agency (EPA), that delegates primacy to the state for carrying out the federal Safe Drinking Water Act.

The State Board of Health (SBOH) establishes regulations for Group A Public Water Systems, chapter 246-290 WAC. Group A water systems serve 15 or more residential connections or 25 or more people, 60 or more days per year. The SBOH also establishes regulations for the certification of laboratories that analyze drinking water samples: Drinking Water Certification Rules, chapter 246-390 WAC. The department implements and enforces these regulations to assure safe and reliable drinking water and to ensure the state meets its obligations with EPA.

Background

In November 2002, DOH transferred implementation of the drinking water laboratory certification program to the Washington State Department of Ecology (Ecology) through a Memorandum of Understanding (MOU). The MOU was developed following discussions with the Board on the benefits of having Ecology assume the drinking water laboratory certification functions previously conducted by DOH.

The primary benefit of the MOU is to optimize the use of limited state resources between the two agencies. Prior to signing the MOU, both departments were certifying laboratories: DOH was certifying drinking water laboratories and Ecology was certifying laboratories analyzing wastewater and other environmental samples. With the MOU in place, Ecology has added the requirements for drinking water laboratories to its rules. The MOU has allowed DOH to save the resources previously devoted to laboratory certification and has simplified the process for laboratories seeking certification.

DOH is now requesting the board initiate rulemaking to its Drinking Water Certification rules, chapter 246-390 WAC, related to laboratory certification to be consistent with the functional changes brought by the MOU and to add reporting requirements.

What: Specific Revisions Being Requested

- Eliminate duplication between the Board's Drinking Water Certification rules, chapter 246-390 WAC and Ecology's laboratory accreditation rule (chapter 173-50 WAC) for the analysis of drinking water samples.
- Rename the current chapter 246-390 WAC "Drinking Water Certification Rules" to more accurately reflect the rule's current purpose: reporting requirements.
- Establish a number of data reporting requirements for laboratories performing water system compliance water quality analyses to ensure accurate, consistent, and timely data reporting for departmental data management.

Why

- Current rules do not reflect the roles and responsibilities for laboratory certification activities as provided in the MOU between DOH and Ecology.
- A rule change is needed to assure consistent, reliable reporting of data, to enable water systems to respond quickly to drinking water quality problems, and to enable the department is able to assure public health is protected from exposure to contaminants.
- Ecology's laboratory accreditation rule is focused solely upon the merits of a lab's analytical capability. Ecology's rules do not address the public health response needed when water quality problems arise. In discussions with Ecology, they have requested that any reporting requirements specific to water quality reporting be developed as separate regulations enforced by DOH.

Who is affected?

- The Drinking Water Certification rule affects laboratories that analyze public drinking water samples. There are approximately 100 laboratories in and out-of-state currently certified to conduct drinking water analysis for water systems in Washington.

How are they affected?

- Laboratories would be required to report results of drinking water analysis in a specific format and timeframe.

Alternatives Considered

- No action
 - Two conflicting rules related to laboratory certification would confuse the regulated community.
 - DOH could be seen as not enforcing the SBOH regulation, even though we do have an MOU with Ecology that defines the current laboratory certification functions.
 - Fails to address the need to add or revise reporting requirements to assure consistent, reliable reporting of data.

- Work with Ecology to add reporting requirements to their laboratory accreditation rules.
 - Addresses the department's need to add or revise reporting requirements to assure consistent, reliable reporting of data.
 - Inconsistent with Ecology's request for the reporting requirements to be administered and maintained by DOH through the MOU.
- Eliminating the current WAC 246-390.
 - Data reporting issues would be unresolved and could lead to a reduction in public health protection (water contamination events not reported in a timely manner).

Possible Controversies

- Some laboratories may oppose placing reporting requirements into rules.
 - Some laboratories are concerned that DOH will revoke certification for minor reporting errors.
 - Some laboratories may comment that the current voluntary approach for meeting the needs of the department are sufficient and that rules would not be needed.

Process

- DOH will work closely with Board staff to develop the rule.
- DOH will develop and carry out an outreach and communications plan to assure all affected parties are invited to participate in the rule changes, including the Department of Ecology, the Environmental Protection Agency, laboratories, and public water systems.

Citations

- RCW 43.20.050(2) (a) (ii) – SBOH authority for drinking water lab certification.
- Chapter 246-390 WAC– Drinking water lab certification rules.
- DOH Certification Manual for Laboratories Analyzing Washington State Drinking Water, revised March 1993.
- WAC 173-50-020(1) – The Department of Ecology's lab certification rules.

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